

U.S. COURTS

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CLERK JUNE
IDAHO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.
HINCKLEY, JACQUELINE T. HLADUN,
MARILYN J. CRAIG, JEFFERY P.
CLEVINGER, and TIMOTHY C.
KAUFMANN, individually and on behalf of
those similarly situated,

Case No. CIV 01-0244-S-BLW

SECOND AFFIDAVIT OF TERESA A. HILL

Plaintiffs.

vs.

MICRON ELECTRONICS, INC., a
Minnesota corporation,

Defendant.

STATE OF IDAHO)

) SS.

County of Ada

SECOND AFFIDAVIT OF TERESA A. HILL - 1

Boise-146603.1 0026493-00046

ORIGINAL

I, Teresa A. Hill, being duly sworn, depose and say:

1. I am an attorney at Stoel Rives LLP and counsel of record for Defendant Micron Electronics, Inc. I am familiar with this case and make this affidavit based on my personal knowledge.

2. In Plaintiffs' Reply Brief (Docket No. 144) ("Reply Brief") plaintiffs allege that defendant permitted off the clock work. Reply Brief at p. 9.

3. The following plaintiff/claimant depositions directly dispute this allegation, as the witnesses admit defendant was likely unaware of any alleged off the clock work:

(a) Deposition of Jeffery Paul Clevenger, 69:24-70:24 (admits he does not recall ever telling his supervisors he was not accurately recording his time);

(b) Deposition of Mathew Jarame Ell, 54:14-25 (admits that by deliberately omitting overtime worked from his time sheet, he prevented his supervisor from acquiring knowledge of unreported overtime hours and that his supervisor should be able to assume time recorded was accurate);

(c) Deposition of Kennan D.E. Ford, 83:4-88:8 (admits he never told supervisors, human resources or upper management he was not accurately recording all of his overtime);

(d) Deposition of Ryan L. Keen 93:2-4, (admits he never told anyone he was not complying with timekeeping policies);

(e) Deposition of Laurie Anne McGeorge, 83:25-11 (admits she does not recall ever telling her supervisors she was not recording all the time she worked and never complained that she was working more time than recorded);

(f) Deposition of Deborah L. Monahan, 56:11-14 (admits she has no reason to believe that her supervisors knew she was not recording all the overtime she was working);

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(g) Deposition of James Wells, 154:1-24 (admits supervisors never "condoned" working off the clock; "[i]n fact, they probably would have said the opposite if I would have even told them that I didn't mark time down."); and

(h) Deposition of Tracy Scott Wells, 126:3-6 (admits he never told anyone he was not recording time he spent working at home and off the clock).

4. The Affidavit of Kim J Dockstader (Filed Under Seal) (Docket No. 125)

("Dockstader Aff.") attached fourteen (14) affidavits of former employees and inside sales representatives (Exhibits A through N) that also directly dispute plaintiffs' allegations. The fourteen affiants all concede: "[n]one of my supervisors or anyone else in management ever instructed, permitted or encouraged me not to record all of my work time or to perform work off the clock." Dockstader Aff., Exhibits A through N, ¶5.

5. The following supervisor affidavits, filed on August 21, 2002, also support the fact that supervisors were unaware of any alleged off the clock work:

- (a) Affidavit of Marcus J. Auchampach (Docket No. 109) at ¶7;
- (b) Affidavit of Kimberly Boschee (Docket No. 110) at ¶8;
- (c) Declaration of William C. Brakeman (Docket No. 120) at ¶¶6-7;
- (d) Affidavit of Dominic Casey (Docket No. 111) at ¶10;
- (e) Affidavit of Larry R. Chase (Docket No. 113) at ¶8;
- (f) Affidavit of Jay Church (Docket No. 114) at ¶11;
- (g) Affidavit of Mark A. Cox (Docket No. 115) at ¶11;
- (h) Declaration of Jay W. Ellis (Docket No. 108) at ¶12;

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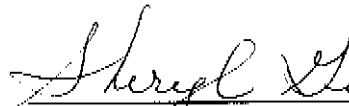
- (i) Affidavit of David J. Groeger (Docket No. 116) at ¶8;
- (j) Affidavit of David R. McCauley (Docket No. 118) at ¶7;
- (k) Affidavit of Jaime Nava (Docket No. 117) at ¶8; and
- (l) Affidavit of Anthony Robinson (Docket No. 112) at ¶8.

DATED this 10th day of September, 2002.



Teresa A. Hill

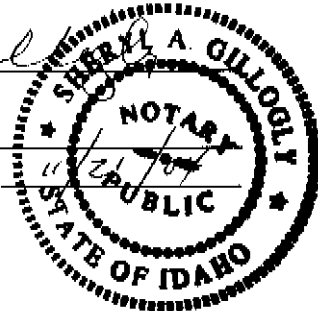
SUBSCRIBED AND SWORN to before me this 10th day of September, 2002.



Notary Public for Idaho

Residing in: Boise

My Commission Expires: 11/21/07




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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September, 2002, a true and correct copy of the foregoing **SECOND AFFIDAVIT OF TERESA A. HILL** was served on the following individuals by the manner indicated;

William H. Thomas
Daniel E. Williams
HUNTLEY, PARK, THOMAS,
BURKETT, OLSEN & WILLIAMS
250 S. Fifth Street, Suite 660
Boise, Idaho 83701-2188

[] By U.S. Mail
[X] By Hand Delivery
[X] By Facsimile
[] By Overnight Delivery



Teresa A. Hill

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